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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 HOANG MINH TRAN,  
12 CDCR #AA-5994,

13 Plaintiff,

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15 vs.

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17 WILLIAM D. GORE, et al.,

18  
19 Defendants.  
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Civil No. 10-1323 BTM (WMc)

**ORDER:**

**(1) DENYING PLAINTIFF'S  
MOTION FOR EXTENSION  
OF TIME TO AMEND; AND**

**(2) DISMISSING ACTION  
WITHOUT PREJUDICE**

**[Doc. No. 12]**

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22 Hoang Minh Tran ("Plaintiff"), who is currently incarcerated at California Men's Colony  
23 ("CMC") in San Luis Obispo, California, is proceeding pro se and initiated this civil action  
24 pursuant to 42 U.S.C. § 1983 on June 21, 2010. On August 23, 2010, the Court granted  
25 Plaintiff's Motion to Proceed *in forma pauperis* ("IFP"), but denied his Motion for Appointment  
26 of Counsel and dismissed his Complaint pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b). *See*  
27 Aug. 23, 2010 Order [Doc. No. 4]. Plaintiff was granted 45 days leave, however, to amend his  
28 pleading. *Id.* at 7.

1 On September 27, 2010, Plaintiff submitted a Motion requesting an extension of time in  
2 which to file his Amended Complaint [Doc. No. 5]. Plaintiff requested additional time based on  
3 two cell moves at CMC and the “complexity and novelty” of his case. The Court granted this  
4 request and provided Plaintiff additional time to file his First Amended Complaint.

5 On November 18, 2010, Plaintiff filed a second “Motion Request for Continuance  
6 Extension of Time to Amend Complaint Due to Outcome Disposition of Post Conviction Direct  
7 Appeals.” [Doc. No. 10]. In this request, Plaintiff is anticipating the “likely reversal from the  
8 Court of Appeal in the State of California” of his criminal convictions. *See* Pl.’s Mot. at 1.  
9 Thus, Plaintiff seeks an additional sixty (60) days to file his First Amended Complaint. *Id.*

10 While Plaintiff’s initial Complaint suffered from a number of deficiencies and his  
11 anticipated ruling from the Court of Appeal was highly speculative, the Court granted him  
12 additional time to file his First Amended Complaint. *See* Nov. 24, 2010 Order at 2. Plaintiff had  
13 until January 24, 2011 to file his First Amended Complaint. *Id.*

14 On January 26, 2011, instead of his First Amended Complaint, the Court received a third  
15 motion for extension of time to file Plaintiff’s First Amended Complaint “due to the outcome  
16 disposition of post-conviction direct appeals.” *See* Pl.’s Mot. at 1. Plaintiff again seeks a six  
17 month extension of time because he believes the California Court of Appeal will reverse his  
18 criminal conviction and he will be able to proceed with the claims in this case that this Court  
19 found were not yet cognizable pursuant to *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).  
20 First, the Court has already granted Plaintiff two previous extensions of time. Second, Plaintiff’s  
21 belief that the California Court of Appeal will reverse his conviction is pure speculation. Third,  
22 even if Plaintiff were able to overcome the *Heck* bar, Plaintiff’s Complaint contains a number  
23 of deficiencies that he is unlikely to be able to fix by filing an Amended Complaint. There is  
24 simply no good cause for this Court to provide Plaintiff with any further extensions of time.

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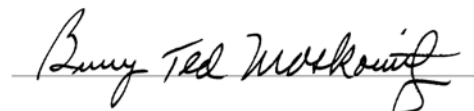
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1 **CONCLUSION AND ORDER**

2 Accordingly, the Court hereby **DENIES** Plaintiff's Motion to Extend Time to file an  
3 Amended Complaint [Doc. No. 12]. This entire action is **DISMISSED** without prejudice for  
4 failing to comply with the Court's November 24, 2010 Order and for all the reasons set forth  
5 in the Court's August 23, 2010 Order.

6 IT IS SO ORDERED.

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8 DATED: January 31, 2011

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11 Honorable Barry Ted Moskowitz  
12 United States District Judge  
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